11 14.05.2019 Heard learned counsel for the petitioner, Sri A.N.Routray, learned counsel appearing for the opposite party no.5 and Sri Sahoo, learned Additional Standing Counsel appearing for the State-opposite party nos. 1 to 4.

This writ petition involves suspension of Secretary of Bhramarbadi Grama Panchayat in the district of Dhenkanal and continue for a representation filed pursuant to direction of this Court in disposal of a writ petition for reinstatement of the Secretary. In response to the notice involving the suspension of the petitioner, State Government filed counter on behalf of opposite party nos.1 and 3. In paragraph-3, the State Government has the following averments:

> "That under Rule-216 of the Orissa Gram Panchayat Rules it is the Gram Panchayat who can suspend the Secretary pending initiation of the Departmental Proceeding. In the present case pending initiation of the Departmental proceeding the petitioner was suspended by the Gram Panchayat. Subsequently charge-sheet have been served on the petitioner calling upon him to show cause as to why action shall not be taken against him in accordance with law. The petitioner did not choose to file any explanation to defend the allegation made against him but however, the Sub-Collector has directed for reinstatement of the petitioner pending finalization of the Departmental proceeding. As the petitioner was involved in the case of misappropriation of Gram Panchayat fund of Rs.46,038.25 Paise as pointed out by the Local Fund Audit, Gram Panchayat did not choose to reinstate the petitioner into the service. So the petitioner has moved the Hon'ble Court in O.J.C.No.1947/2002. While disposing of the writ petition in order dated 30.4.2002 this Hon'ble Court observed that the petitioner may approach the Collector by making a representation. If any such representation is made the Collector will examine the same and pass appropriate order. Accordingly the petitioner filed a representation before the Collector, Kandhamal and the Collector, Kandhamal examined the materials on record and the charges leveled against the

petitioner and the audit report and the report of the District Panchayat Officer for initiation of a surcharge proceeding was of the view that the allegation against the petitioner was serious in nature and Gram Panchayat has also filed a petition not to reinstate the petitioner into service and accordingly rejected the representation of the petitioner for reinstatement. Therefore, no illegalities has been committed by the Collector, Kandhamal in rejecting the representation of the petitioner for reinstatement.

But in the meantime the petitioner has retired from service on 31.3.2006. Till his retirement all the dues such as subsistence allowance have been paid by the Gram Panchayat to the petitioner. Any other amount will be subject to the result of the Departmental Proceeding pending against the petitioner. Therefore, the writ petition has no merit and is liable to be dismissed."

Looking to the clear statement made by the opposite party nos.1 and 3 indicating reinstatement of the petitioner pending Departmental proceeding, this Court finds no cause of action survives in the writ petition. It is also submitted during course of argument that the petitioner has already been superannuated in the meantime. Accordingly, this writ petition stands dismissed for having no cause of action survives.

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***BISWANATH RATH,J***

*sks*